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U.S.D.C. Atlanta

JUN 23 2005

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LUTHER D. THOMAS, Clerk
By: *[Signature]* Deputy Clerk

**TONY L. WARE, CEO and
T. L. WARE BOTTLING CO., INC.,**

Plaintiffs,

vs.

**FLEETBOSTON FINANCIAL CORP.
F/K/A BANKBOSTON CORP.**

Defendant.

CIVIL ACTION FILE NUMBER:

1: 05 - C V - 0 4 2 6 - M H S

**MICHAEL R. JOHNSON, SR'S
SECOND DECLARATION**

**SECOND DECLARATION OF
MICHAEL R. JOHNSON, SR. ATTORNEY**

I MICHAEL R. JOHNSON, Sr., Attorney for the Plaintiff **T.L. WARE BOTTLING COMPANY, INC.,** in the above-styled action in deposes, states and make the declarations pursuant to **28 U.S.C. § 1746** as follows:

1. That my name is **MICHAEL R. JOHNSON, SR.,** and that I am over the age of the legal majority and am competent to make these declarations. I further state that all statements made in this declaration are made on my personal knowledge, information and belief. I am qualified as an attorney at law to give legal advice to the Plaintiff in this civil action.

2. I am further giving this declaration under duress and by force of this Court having no jurisdiction over the subject matter of this case under the *Rocker-Feldmen* doctrine. In response to the Orders entered by this Court on May 26th, 2005 I object and protest any unlawful sanctions against me or my law firm.

3. My past representation of the Plaintiff Tony L. Ware have no relevance in this case and the State Courts has never sanction me for Mr. Ware's past litigation.

1 4. I hold that this Court has no authority to review Judge Brogdon's and Judge
2 Baxter's final orders. According to the *Rooker-Feldman* doctrine the U.S. Supreme
3 Court has said in *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462,
4 482, 103 S.Ct. 1303, 1315, 75 L.Ed2d 206 (1983) that a United State District Court
5 has no authority to review final judgments of a state court in judicial proceedings.
6 Review of such judgments may be had only in the United States Supreme Court.

7 5. I would state to this Court and the Defendant through its attorneys that if
8 any of the U.S. Court of Appeals or the United States Supreme Court reverse this
9 Court's Orders entered on May 26th, 2005, this law firm and other will take all legal
10 actions needed to redress the wrongs done to me and our client in this case.

11 6. I further protest and inform the Court that the Plaintiffs and I were never
12 served with a copy of the Orders entered on May 26th, 2005. A copy of these orders
13 was drooped on the door step of a Medical Office next to my law firm. An office
14 assistant of that Medical Office informed me later that some man came by and droop
15 a package on their step on or about June 2nd, 2005.

16 7. Plaintiff Ware did informed me later that he never received a copy of these
17 orders at his legal address. I later gave Plaintiff Ware a copy of these Orders by the
18 Court. Mr. Ware has a right to be heard and served with all papers in this action
19 because he represents himself pro se.

20 8. I believe that a miscarriage of justice is being done to the Plaintiffs and my
21 law firm. I further ask that this Court to consider the ramifications of acting without
22 subject matter jurisdiction in this case as stated in Plaintiffs' Revised Motion to
23 Dismiss and Remand Case.

24 9. Subject matter jurisdiction can never be waived or consented to by the
25 parties and can be raised at any stage of the proceeding.

9. I hereby object to disclosure of my financial condition as ordered by the
Court on May 26th, 2005 as it may exceed the permissible scope of this Court subject
matter jurisdiction. However, subject to such objection by me and without waiving the
same, I comply with the Court order under duress and show the Court the following:

1 A. I have an escrow account that holds monies for all of my
2 clients which is required of me by the State Bar of Georgia. These
3 monies are not my own funds and may not mingle with or be used for
4 my own personal use.

5 B. I own a home to which I do not know to full market value.

6 C. I have a 1993 Toyota Camry valued at about \$1,150.00.

7 D. I have more than \$250,000.00 in legal debts such as
8 home mortgage, insurance and credit cards etc.

9 E. I share approximately \$55,000.00 or more of my wife's
10 medical bills and other credit obligations.

11 10. At this time my liabilities far exceed my assets. Therefore, I would not have
12 any funds to pay any sanctions entered against me. I believe that there are no legal
13 bases to enter any sanctions against me or the Plaintiffs in this action. Any sanctions
14 entered against me or Plaintiff Ware would be wrong and an unjust by this Court.

15 I MICHAEL R. JOHNSON, SR., ATTORNEY for the Plaintiff T.L. Ware Bottling
16 Company, Inc., declare under penalty of perjury that the foregoing is true and correct.

17 This 24th day of June, 2005.

18 Respectfully Submitted,

19 

20 MICHAEL R. JOHNSON, SR.
21 Attorney at Law

22 JOHNSON & ASSOCIATES, P.C.
23 340 West Peachtree Street, N.E.
24 Suite 200
25 Atlanta, Georgia 30308
(404) 688-7100

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CERTIFICATE OF SERVICE

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COMES NOW, MICHAEL R. JOHNSON, SR., Attorney for the Plaintiff T.L. Ware Bottling Company, Inc., with the consent of Plaintiff Tony L. Ware and certify that I have served both FleetBoston Financial Corporations with a copies of Plaintiffs' MOTION TO SET ASIDE VOID ORDERS with Memorandum of Law in support, NOTICE OF APPEAL and other documents filed by the Plaintiffs in this action on the following person:

**Mr. William J. Holley, Esq.
285 Peachtree Center Ave, N.E., 1500 Marquis Tower
ATLANTA, GEORGIA 30303**

This 23rd, day of June, 2005.

Respectfully Submitted,

[Signature of Michael R. Johnson, Sr.]

**Michael R. Johnson, Sr.
Attorneys for the Plaintiff
Georgia Bar No. 395056**